

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In re Applications of) MM Docket No. 97-128
)
)
Martin W. Hoffman,)
Trustee-in-Bankruptcy for Astroline) FCC File No. BRCT-881201LG
Communications Company Limited)
Partnership)
)
For Renewal of License of Station)
WHCT-TV, Hartford, Connecticut)
)
Shurberg Broadcasting of Hartford) FCC File No. BPCT-831202KF
)
)
For Construction Permit for a New)
Television Station to Operate on)
Channel 18, Hartford, Connecticut)
)

TO: The Honorable John M. Frysiak
Administrative Law Judge

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OCT 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TRUSTEE/RAMIREZ/TIBS EXHIBIT 4

Declaration of Lee Simowitz

Respectfully submitted,

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MARTIN W. HOFFMAN, TRUSTEE-IN-BANKRUPTCY
FOR ASTROLINE COMMUNICATIONS COMPANY LIMITED
PARTNERSHIP

By: Peter D. O'Connell
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RICHARD P. RAMIREZ

By: Kathryn R. Schmeltzer
Barry H. Gottfried
Colette M. Capretz
His Counsel

TWO IF BY SEA BROADCASTING CORPORATION

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By: Howard A. Topel
Its Counsel

Dated: September 9, 1998

DECLARATION OF LEE H. SIMOWITZ

I received my B.A. degree cum laude from Harvard University in 1968 and my law degree from Yale Law School in 1972. Following law school I was law clerk to the Honorable Harold H. Greene, Chief Judge of the Superior Court for the District of Columbia, in 1972-73. Between 1973 and 1977, I worked in various positions at the Federal Trade Commission, the last of which was serving as Attorney Adviser to Calvin J. Collier, the Chairman of the FTC. I was an associate and subsequently a partner in the law firm of Morison, Murphy, Abrams & Haddock in 1977-79. I have been a partner at the law firm of Baker & Hostetler LLP since 1979, specializing in litigation, trade regulation law, and administrative law.


I was lead counsel for intervenor Astroline Communications Company Limited Partnership ("ACCLP") in the case of *Shurberg Broadcasting of Hartford, Inc. v. FCC*, 876 F.2d 902 (D.C. Cir. 1989). That case involved judicial review of the FCC's grant of the petition of Faith Center, Inc. for permission to assign the broadcast license for Station WHCT(TV), Hartford, Connecticut, to ACCLP pursuant to the FCC's minority distress sale policy. That case was in the United States Court of Appeals for the District of Columbia Circuit between 1985 and 1989 (which included a temporary remand to the FCC). The Supreme Court then granted certiorari with regard to the case and a companion case, and decided both cases in *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547 (1990). I served as counsel of record for ACCLP in the Supreme Court, and was principally responsible for writing the certiorari petition and the briefs on the merits for ACCLP.

I dealt with Richard Ramirez, the General Partner of ACCLP, during the entire pendency of the case in the United States Court of Appeals for the District of Columbia Circuit and the United States Supreme Court. To the best of my recollection, all instructions with regard to the

conduct of the court case or comments on drafts that I received directly from ACCLP came from Mr. Ramirez. I received no substantive comments or instructions from the limited partners of ACCLP at any time, to the best of my recollection. I understood that Mr. Ramirez was in control of ACCLP at all times during the court case.

The record before the FCC on which the court case was based was completed with the Commission Memorandum Opinion and Order granting the assignment of WHCT(TV)'s license to ACCLP in December 1984. Baker & Hostetler began to represent ACCLP before the FCC during the first part of 1985. To the best of my recollection, all factual statements in briefs prepared by Baker & Hostetler to the United States Court of Appeals for the District of Columbia Circuit or the United States Supreme Court were based on the administrative record as compiled before the FCC in 1984 or before, consistent with principles of appellate review of agency action.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct. Executed on September 8, 1998.


Lee H. Simowitz

Date _____
 Report 9-23-48
 Disposition _____
 Presented by _____
 Booklet No. _____
 Identified _____
 Registered _____
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 Exhibit No. 4
 Broadcasht
 Federal Communications Commission